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Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cynthia Bryant
Director

Memorandum

Date: December 31, 2007
From: Terry Roberts, Director, State Clearinghouse
Re: Department of Fish & Game Fees Increase Effective January 1, 2008

This memo is intended to inform the public of a recent change in State law governing the acceptance and posting of Notices of Determination.

Senate Bill 1535 was signed into law on September 29, 2006, and increases the Department of Fish and Game filing fee for Notices of Determination (NOD). The Bill requires the Department of Fish and Game to adjust the fees annually pursuant to Fish and Game Code Section 713. The annual fee adjustments are based on changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the U.S. Department of Commerce. The bill also eliminates the fee exemption for projects determined to have a "de minimis" effect on fish and wildlife (Section 711.4 of the Fish and Game Code).

The Fish and Game filing fees have increased as follows:

	<u>2007 Fee</u>	<u>Fee Effective 1-1-08</u>
Negative Declaration	\$1,800	\$1,876.75
Mitigated Negative Declaration	\$1,800	\$1,876.75
Environmental Impact Report	\$2,500	\$2,606.75
Certified Regulatory Program	\$850	\$850

For more of Department of Fish and Game information on the fee increases refer to their website: http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html

The Fish and Game filing fee is due at the time of filing a NOD. State lead agencies must submit the filing fee payment to the State Clearinghouse when filing a NOD with this office by including as part of its filing a check payable to the Department of Fish and Game. Local lead agencies must pay the fee to the appropriate County Clerk when filing a NOD locally. Because a lead agency typically files its NOD before responsible

agencies file their NODs for the project, payment is required at the time of the lead agency's filing. If for any reason the fee was not paid at the time the lead agency filed its NOD, the fee must be submitted at the time a responsible agency files its NOD.

A State agency that is taking action pursuant to a Certified Regulatory Program must submit the required \$850 filing fee to the Department of Fish and Game prior to filing its Notice of Decision with the Secretary for Resources.

If a required filing fee is not paid for a project, the project will not be operative, vested or final and any local permits issued for the project will be invalid. (Section 711.4(c)(3) of the Fish and Game Code.)

Under the revised statute, a lead agency may no longer exempt a project from the filing fee requirement by determining that the project will have a de minimis effect on fish and wildlife. Instead, a filing fee will have to be paid unless the project will have *no effect* on fish and wildlife. (Section 711.4(c)(2) of the Fish and Game Code). If the project will have any effect on fish and wildlife resources, even a minimal or de minimis effect, the fee is required. A project proponent who believes the project will have *no effect* on fish and wildlife should contact the Department of Fish and Game at the headquarters of the Department of Fish and Game region in which the project is located. The region headquarters contact information can be obtained at the following website:
<http://www.dfg.ca.gov/regions/index.html>.

In summary, the State Clearinghouse will not accept or post a NOD filed by any state lead agency unless it is accompanied by one of the following: (1) a check with the correct Fish and Game filing fee payment, (2) a receipt or other proof of payment showing previous payment of the filing fee for the same project, or (3) a form documenting the determination that the project will have no effect on fish and wildlife.

Likewise, County Clerks should not accept or post an NOD from a local lead agency unless accompanied by one of these three documents.

A copy of the bill, as chaptered, is available at the California Legislative Information website at www.leginfo.ca.gov.